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## State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor  
Scott Hassett, Secretary

101 S. Webster St.  
Box 7921  
Madison, Wisconsin 53707-7921  
Telephone 608-266-2621  
FAX 608-267-3579  
TTY Access via relay - 711

March 6, 2006

Mr. Don Hultman  
Upper Mississippi River NW&FR  
51 E. Fourth St. Room 101  
Winona, MN 55987

Subject: Alternative E of the Comprehensive Conservation Plan for the Upper Mississippi River  
National Wildlife and Fish Refuge

Dear Mr. Hultman:

Thank you for the opportunity to comment on Alternative E, the new preferred alternative presented in the Comprehensive Conservation Plan (CCP) for the Upper Mississippi River Wildlife and Fish Refuge. My staff have closely followed development of the plan and attended most of the 30 plus meetings you and your staff conducted on the river. Your agency's efforts to encourage public participation during plan development are commendable. We support Alternative E with the understanding that discussion of issues of concern to the Department, as identified below, will continue until resolution.

### HABITAT RESTORATION PROJECTS

We still believe strongly that all habitat restoration projects must include the needs of the whole ecosystem and must include all cost effective measures. Alternative E asserts that components of the habitat restoration projects will be decided on a case by case basis. We had hoped to get more assurance from you on how we would proceed with all cost effective measures. We would like to sit down and establish criteria for making these important decisions, establish reasonable uniformity throughout the districts, and document how these decisions are made. We hope to have 50-years worth of habitat restoration projects on the river, so now is a good time to set the standard for us and those that follow.

### ACCESS FOR ENVIRONMENTAL MONITORING AND ENFORCEMENT

I would like to reiterate that staff from WDNR and other agencies must have open access in order to conduct environmental monitoring, enforcement, and other work activities, using whatever means necessary and in any of the special designation areas. We will use prudence when working in these areas but the data collected and the knowledge gained is imperative for making good decisions for the long term sustainability of the resource.

### DESIGNATION CHANGES IN THE STATE OF WISCONSIN

The closed area changes and modifications to closed area boundaries are substantially different than those promulgated by WDNR regulations in s. NR 11.032, Wis. Adm. Code. Consequently, WDNR will need to pursue changes to these state regulations through the administrative rule process, which includes public hearings, adoption by the State Natural Resources Board, and subsequent review by the State Legislature. The rules on these closed area boundaries approved by the State Legislature may end up being different

that those proposed in Alternative E. Consequently, WDNR requests that the Service continue to work with WDNR during this process so the Federal regulations on closed area boundaries end up being the same as the state regulations.

In addition, the WDNR does not have the authority to enact or enforce rules on the Mississippi River that regulate the means of navigation, such as no wake, electric motors only, or no airboat regulations. In Wisconsin, that authority is held by local municipalities and implemented by the town, village or city board passing local ordinances that are effective in that local jurisdiction, according to s. 30.77, Wis. Stats."

#### ALTERNATIVE E COMPARED TO ALTERNATIVE D

It is apparent from Alternative E that you have seriously considered a large number of the concerns expressed by the public and by public agencies over Alternative D. Your expressed desire to work cooperatively with citizens and public agencies to develop and implement the plan provisions is admirable.

In Alternative D, Wisconsin DNR clearly stated that closed areas must remain open to fishing during the waterfowl season as we believe closing them to fishing would violate the intent of the Wisconsin legislation allowing establishment of the Refuge. In response, Alternative E removed the no fishing restriction in the closed areas and changed the waterfowl closed areas from no entry areas to voluntary avoidance and Slow-No-Wake from October 15 to the end of duck season or to no motor use on areas less than 1000 acres after Oct. 15. This change allows for both navigation and fishing within the closed areas and the entire refuge.

Most of the public and WDNR requested that proposed plan restrictions on navigation be greatly reduced. In response you decreased the number of electric motor/paddle areas from sixteen electric motor areas to six electric motor areas and added eight, less restrictive Slow-No-Wake areas. These reductions and new designations significantly reduce the proposed restrictions on navigation within the refuge.

We urge you to continue to work with WDNR and the public to ensure that the public has reasonable access to navigation, and fishing and hunting in the refuge, pursuant to the intent of the congressional consent legislation and the Wisconsin legislation allowing establishment of the refuge.

We recommended a law enforcement step-down plan be added to the CCP. Alternative E incorporated that recommendation. We appreciate that addition but remain concerned about the timing of this step-down plan. **We believe it is critically important that these law enforcement issues be resolved before significant new refuge regulations are enacted.** Implementing such a significant rule package, without addressing enforcement issues first, will create an enforcement headache not only for the refuge but also for state officers along the Mississippi River. Furthermore, we do not support the addition of more refuge enforcement positions until after the step-down plan is complete. This is necessary to avoid duplication of efforts, to clarify authorities, and to provide the essential information/education infrastructure so that the Refuge can meet the responsibility of responding to citizen calls and complaints of violations in progress, pertaining to the new regulations, outside normal business hours."

The public and WDNR requested that most additional beach, camping and other public use regulations not be developed without close cooperation with the public and public agencies. You agreed to restart the beach planning process and remove additional recreational use restrictions from the CCP. Your proposal to update the Land Use Allocation Plan will prove valuable in the process of establishing these recreation beaches on the refuge. We are also pleased to read that you included the public proposed glass containers ban on Refuge lands. As stated in our last letter WDNR concurs with the proposed ban and the inclusion

in Alternative E. There is some concern with how this will be enforced but we would be glad to work with you on that issue.

We also appreciate your inclusion of state listed and special concern species in alternative E and we look forward to management of these valuable species in partnership with your agency.

#### SPECIFIC COMMENTS FOR ALTERNATIVE E:

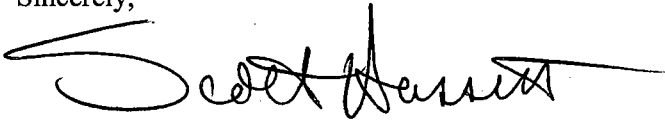
We recommend the minimum disturbance level for waterfowl in closed areas should be set at 1000 waterfowl or greater, rather than ½ the waterfowl present. An average of 20 disturbances per week is also more realistic. We concur with you that agency and commercial fishing activities will not be included in the disturbance calculations

We agree that fire and other active management will be needed to maintain existing and created habitat in many cases. These management techniques must also be applied to terrestrial habitat on islands. On another management issue we suggest that you attempt to locate canoe trails within slow no wake areas where possible.

Finally, we continue to support the proposal for land acquisition, from willing sellers, within the Refuge boundaries. These additional lands will provide habitat buffers for resident and migratory species that use the river corridor as well as provide more recreational opportunities for river users.

Thank you again for the opportunity to review and comment on the proposed Comprehensive Conservation Plan for the Upper Miss. Refuge. I appreciate the attention you have paid to most of our previous recommendations and we ask that you work with us during the process of making final changes to Alternative E. We look forward to the completion of the plan and moving forward to work cooperatively on other important river issues.

Sincerely,



Scott Hassett  
Secretary

cc: Holly Stoerker, UMRBA, 415 Hamm Building, 408 St. Peters St, St. Paul, MN, 55102  
Rick Nelson, USFWS, 4469 48<sup>th</sup> Ave. CT, Rock Island, IL 61201  
Tim Schlagenhaft, MNDNR, 2300 Silver Creek Rd, Rochester, MN, 55906  
Mike Griffin, IDNR, 206 Rose Street, Bellevue, IA 52031  
Dan Sallee, ILDNR, 2317 East Lincolnway, Suite A, Sterling, IL 61081  
Scott Humrickhouse, WDNR, 1300 West Clairemont Ave., Eau Claire, WI 54702-4001  
Gretchen Benjamin, WDNR, 3550 Mormon Coulee RD, La Crosse, WI 54601  
Patrick Henderson, Office of the Governor, State Capitol 115 E, Madison, WI 53702  
Todd Ambs, WDNR, GEF II – AD/5  
Tim Andryk, WDNR, GEF II – LS/5  
Todd Peterson, WDNR, GEF II – WM/6  
Laurie Osterndorf, WDNR, GEF II - AD/5  
Tom Hauge, WDNR, GEF II – WM/6  
Signe Holtz, WDNR, GEF II – ER/6  
Senator Dan Kapanke

Senator Ron Brown  
Senator Dale Schultz  
Representative Michael Huebsch  
Representative Barb Gronemus  
Representative Jennifer Shilling  
Representative Lee Nerison  
Representative Gabe Loeffelholz